

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A24-1849**

State of Minnesota,  
Respondent,

vs.

Benjamin Michael Brant,  
Appellant.

**Filed July 28, 2025  
Reversed and remanded  
Harris, Judge**

St. Louis County District Court  
File No. 69DU-CR-22-2484

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Kimberly J. Maki, St. Louis County Attorney, Jacqueline M. Primeau, Assistant County Attorney, Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Hannah Laub, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Harris, Judge.

**NONPRECEDENTIAL OPINION**

**HARRIS**, Judge

Appellant challenges the district court's revocation of his probation, arguing that the district court erred by not making sufficient findings that his probation violations were intentional or inexcusable, and that it abused its discretion by determining that the need for

confinement outweighed the policies favoring probation. Because the district court's probation-related findings are insufficient to permit meaningful appellate review, we reverse and remand.

## **FACTS**

In September 2022, respondent State of Minnesota charged appellant Benjamin Michael Brant with operating a motor vehicle under the influence of alcohol, in violation of Minnesota Statutes section 169A.20, subdivision 1(1) (2022), and operating a motor vehicle with an alcohol concentration of 0.08 within two hours of driving, in violation of Minnesota Statutes section 169A.20, subdivision 1(5) (2022). The parties entered into a plea agreement and agreed to recommend to the district court that Brant's sentence be stayed for five years with supervised probation.

In December 2022, Brant pleaded guilty to operating a motor vehicle with an alcohol concentration of 0.08 within two hours. The district court accepted the plea, dismissed the remaining charge, and adjudicated Brant guilty. In February 2023, the district court sentenced Brant to 36 months in prison, stayed for five years with supervised probation. As a condition of his probation, Brant was ordered to participate in the Southern St. Louis County Specialty Court (DWI court);<sup>1</sup> abstain from the use and possession of alcohol and controlled substances; submit to random testing; avoid bars and liquor stores; refrain from driving without a valid driver's license and insurance; and complete chemical-dependency treatment programs.

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<sup>1</sup> As part of DWI court, Brant agreed to follow additional rules set forth by the DWI Court Handbook.

In November 2023, the state filed the first probation-violation report, alleging that Brant failed to abstain from the use or possession of alcohol, failed to submit to random testing, drove without a valid driver's license, and failed to cooperate with the rules of the DWI court. Brant admitted to the violations. The district court found that he violated probation and reinstated probation with the same conditions.

Approximately one month later, the state filed the second probation-violation report alleging that Brant failed to abstain from the use or possession of alcohol and attempted to manipulate a urine test. Brant admitted to the violations and the district court found him in violation and continued probation.

The state filed the third probation-violation report a month later alleging that Brant stayed overnight out of town without prior permission. Brant entered a denial and requested a contested probation-violation hearing. Following the hearing, the district court found that Brant violated his probation and that it was intentional and inexcusable and continued probation.

In April 2024, the state filed the fourth probation-violation report alleging that Brant failed to report to probation, did not follow the rules of DWI court, and refused to provide a urine sample for a drug test. Between April and June 2024, the state filed three addenda to the fourth probation-violation report. The first addendum provided background information but did not allege any additional probation violations. The second addendum added new probation violations for failing to abstain from the use or possession of substances, possessing a bottle of someone else's urine, and failing to respond to a

probation officer's attempts to reach him at home. The third addendum alleged that Brant violated probation when he left inpatient treatment and consumed alcohol at a bar.

The district court held a hearing to consider the probation violations alleged in the fourth probation-violation report. Brant admitted the violations in the fourth probation-violation report and the addenda. The district court accepted Brant's admissions and found him in violation of probation. In a separate disposition hearing before a different judge the district court found that Brant was "in need of correctional treatment, which [could] most effectively be provided during confinement." The district court revoked Brant's probation and executed his 36-month prison sentence.

Brant appeals.

## **DECISION**

Brant challenges the district court's decision to revoke his probation and execute his prison sentence. When a defendant violates a condition of probation, the district court may revoke probation and execute the stayed sentence. Minn. Stat. § 609.14, subds. 1, 3 (2022). "The [district] court has broad discretion in determining if there is sufficient evidence to revoke probation," and we will only reverse "if there is a clear abuse of that discretion." *State v. Austin*, 295 N.W.2d 246, 249-50 (Minn. 1980). But whether the district court made the required findings to revoke probation is a question of law, which we review de novo. *State v. Modtland*, 695 N.W.2d 602, 605 (Minn. 2005).

Before revoking probation, "the [district] court must 1) designate the specific condition or conditions that were violated; 2) find that the violation was intentional or inexcusable; and 3) find that the need for confinement outweighs the policies favoring

probation.” *Austin*, 295 N.W.2d at 250. These findings must be made on the record before probation is revoked. *Modtland*, 695 N.W.2d at 606. However, district courts “should not assume that they have satisfied *Austin* by reciting the three factors and offering general, non-specific reasons for revocation.” *Id.* at 608. To the contrary, district courts must make *Austin* findings to assure “thorough, fact-specific records setting forth [the] reasons for revoking probation.” *Id.* In making the findings, district courts “are not charged with merely conforming to procedural requirements; rather, courts must seek to convey their substantive reasons for revocation and the evidence relied upon.” *Id.*

Brant argues that the district court failed to make explicit findings under the second *Austin* factor that his probation violations were “intentional or inexcusable.” *Austin*, 295 N.W.2d at 250. The state agrees that neither judge in district court found that Brant’s probation violations were “intentional and inexcusable” but argues that this omission was a defect of form and a careful review of the record establishes that Brant’s violations were indeed intentional and inexcusable. Based on our careful review of the record, we agree with Brant.

During the probation-violation hearing, the district court discussed its reasons for revoking Brant’s probation. When evaluating the second *Austin* factor, the district court said that a judge during an earlier hearing “had previously heard the violations that Mr. Brant admitted to. [The judge] did accept those admissions. She found Mr. Brant in violation of probation, and did find those violations intentional and inexcusable.” This statement reflects an erroneous view of the record.

The previous judge's statements related to Brant's third probation-violation report—not the current probation-violation report. In January 2024, the state filed a third probation-violation report asserting that Brant left town without permission. The district court held a contested hearing in February 2024, at which time Brant admitted that he knew he was required to get permission before leaving town and failed to do so. The district court found that this earlier violation “was intentional and inexcusable.”

Based on its reliance on the previous judge's statements, the district court here did not make any specific findings that Brant's violations as outlined in the fourth probation-violation report and its addenda were intentional or inexcusable. The state alleged that between April and June 2024, Brant violated probation by leaving town to travel to Florida, failing to provide a urine sample for a drug test while in Florida, possessing a bottle of someone else's urine, failing to respond to a probation officer's attempts to reach him at home, and consuming alcohol at a bar while away from inpatient treatment. Brant argues that some of these violations were excusable or unintentional. For example, he asserts that his trip to Florida was approved and that he tried to provide a urine sample at a testing location in Florida but was unable to do so. He also argues that he was at home when his probation officer tried to reach him, but did not hear a knock at the door or hear his phone ring. But no district court has addressed whether these violations were intentional or inexcusable. And without any findings in the record on the second *Austin* factor for the current probation violations, we cannot conduct meaningful appellate review to determine whether the district court abused its discretion.

The state does not dispute that the district court did not find that Brant's most recent probation violations were intentional or inexcusable. Instead, the state argues that the district court's error resulted from a "miscommunication" and that the record as a whole establishes that the violations were intentional and inexcusable. However, "it is not the role of appellate courts to scour the record to determine if sufficient evidence exists to support the district court's revocation." *Modtland*, 695 N.W.2d at 608. And we cannot affirm a district court's decision based on sufficient evidence when the district court did not make the requisite *Austin* findings. *Id.* at 606; *see also In re Welfare of M.D.O.*, 462 N.W.2d 370, 374-75 (Minn. 1990) (noting that role of the court of appeals is to correct errors, not find facts).

Because the district court did not make adequate findings on the second *Austin* factor, we reverse the district court's probation-revocation decision and remand for the district court to make sufficient findings in accordance with the requirements of *Austin* and *Modtland*.<sup>2</sup> *See Erickson v. State*, 702 N.W.2d 892, 897 (Minn. App. 2005) (reversing and remanding to district court to make necessary findings in support of revocation of appellant's probation). We state no opinion on the merits of the remanded issue. Further,

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<sup>2</sup> The state argues that "no useful purpose" would be served by remanding for further findings because the district court's order "implies" that Brant's violations were intentional and inexcusable. The state relies on a nonprecedential case in support of this argument. *See State v. Wallin*, A06-1960, 2007 WL 2367124, at \*3 (Minn. App. Aug. 21, 2007). As a nonprecedential opinion, *Wallin* is not binding and we decline to apply its reasoning here.

the decision whether to reopen the record on remand rests within the district court's discretion.<sup>3</sup>

**Reversed and remanded.**

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<sup>3</sup> Brant also argues that the district court erred by finding that the need for confinement outweighed the policies favoring probation under the third *Austin* factor and the *Modland* subfactors. Because we lack sufficient findings to conduct a meaningful review, we do not reach this issue.